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Date:	FEBRUARY 28, 2005
To:	EXAMINER EVA Y. ZHENG U.S. PATENT AND TRADEMARK OFFICE
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Client/Matter No.:	PHB 34,433 (7790/357)
# of Pages: (including cover sheet)	19

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Attorney Docket No.	PHB 34,433 (7790/357)
Application Number	09/732,194
Filing Date	DECEMBER 7, 2000
First Named Inventor	KENNETH R. WHIGHT
Group Art Unit	2634
Examiner	ZHENG, EVA Y.

ENCLOSURES *(check all that apply)*

☐ Amendment	☐ Assignment Papers *(for an Application)*	☐ Appeal Communication to Board of Appeals and Interferences
☐ After Final	☐ Drawings:	☒ **Appeal Brief**
☐ Affidavits/declaration(s)	☐ After Allowance Communication to Group	
	☐ Petition Routing Slip (PTO/SB/69) and Accompanying Petition	☐ Proprietary Information
☐ Status Letter	☐ To Convert a Provisional Application	☐ Post Card Receipt
☐ One-Month Petition for Extension of Time Request (duplic)	☐ Power of Attorney, Revocation Change of Correspondence Address	☐ Additional Enclosure(s) *(please identify below):*
☐ Express Abandonment Request	☐ Terminal Disclaimer	☐
☐ Information Disclosure Statement, PTO-1449, art	☐ Small Entity Statement	☐
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☐ Response to Missing Parts/ Incomplete Application		

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☒ I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 50-1713. A duplicate copy of this sheet is enclosed.

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	Claims After Amendment		Highest No Previously Paid For	Present Extra	Small Entity Rate	Small Entity Add'l Fee	or	Large Entity Rate	Large Entity Add'l Fee
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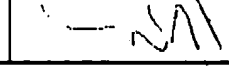
Indep.		Minus		0	x $100	0		x $200	
First Presentation of Multiple Dep. Claim					+$180	—		+ $360=	
					total add'l fee	$ 0		total add'l fee	$

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	DARRIN WESLEY HARRIS Registration No. 40,636 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
Signature		Date	February 28, 2005

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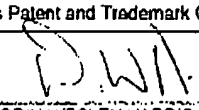
Signature	 DARRIN WESLEY HARRIS (40,636)	Date: February 28, 2005

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Date of Signature

PATENT
Case No. PHB 34,433
(7790/357)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re patent application of:	)	
	)	
KENNETH R. WHIGHT	)	
	)	Examiner: ZHENG, EVA Y
Serial No.: 09/732,194	)	
	)	Group Art Unit: 2634
Filed: DECEMBER 7, 2000	)	
	)	
For: MULTIBIT SPREAD SPECTRUM SIGNALING	)	

APPEAL BRIEF

Mail Stop **Appeal Brief - Patents**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows:

TABLE OF CONTENTS

1. REAL PARTY IN INTEREST

The real party in interest is the assignee of record U.S. Philips Corporation, a Delaware corporation having an office and a place of business at 1251 Avenue of the Americas, New York, NY 10020-1104

2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

3. STATUS OF CLAIMS

Claims 11-23 are currently pending in the present application. Independent claims 11 and 23 are the claims on appeal. See, Claims Appendix.

4. STATUS OF AMENDMENTS

Appellant filed an after final request for reconsideration of independent claims 11 and 23 in response to a Final Office Action dated August 25, 2004. The request for reconsideration did not contain any amendments to independent claims 11 and 23.

5. SUMMARY OF THE CLAIMED INVENTION

A spread spectrum transmitter Tx as illustrated in FIG. 1 transmits a spread spectrum signal via an antenna 20. To this end, spread spectrum transmitter Tx employs a source 10 of a higher bit rate HBR signal having a higher bit rate (200 kbps), a source 26 of a lower bit rate LBR signal having a lower bit rate (22.22 kbps), a code generator 14 serving as a source of a 11 chip PN-code sequence, and a code generator 30 serving as source of a 9-chip PN-code sequence. Transmitter Tx further employs a change-over switch SW to either facilitate a multiplying of the higher bit rate HBR signal and the 11 chip PN-code sequence by a multiplier 12 to give the outgoing spread spectrum signal a predetermined output chip rate (2.2. Mcps), or facilitate a multiplying of the lower bit rate LBR signal and the 9 chip PN-code sequence by a multiplier 28 to give a lower bit rate product a specific chip rate (200 kcps) and a multiplying of the lower bit rate product and the 11 chip PN-code sequence by a multiplier 12 to give the outgoing spread spectrum signal the predetermined output chip rate (2.2 Mcps). The chip rate (200 kcps) of the lower bit rate product equals the higher bit rate (200 kbps) of the higher bit rate HBR signal. See, *U.S. Patent Application Serial No. 09/732,194* at page 4, line 19 to page 5, line 9.

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 11 and 23 stand finally rejected as being anticipated by U.S. Patent No. 6,519,292 B1 to *Sakoda* et al.

7. ARGUMENT

Sakoda. As illustrated in FIG. 6, *Sakoda* teaches a predetermined output chip rate of 2048 Kcps for a spread spectrum signal S43 in a transmitter 40 that is obtained by a spreading of a bit rate signal S42 by a spread code C11 to yield spread spectrum signal S43 at 2048 Kcps, which is subsequently scrambled by a scramble code C12 to yield a scrambled spread spectrum signal S44 at 2048 Kcps. To this end, *Sakoda* teaches a control section 42 for changing a coded bit rate of bit rate signal S42 and a spreading ratio of spread code C11 as a function of time.

Specifically, the coded bit rate of bit rate signal S42 is 64 Kcbps and the spreading ratio of spread code C11 is 32 for a first time period. The coded bit rate of bit rate signal S42 is 128 Kcbps and the spreading ratio of spread code C11 is 16 for a second time period. The coded bit rate of bit rate signal S42 is 204.8 Kcbps and the spreading ratio of spread code C11 is 10 for a third time period. And, the coded bit rate of bit rate signal S42 is 256 Kcbps and the spreading ratio of spread code C11 is 8 for a final time period. See, *Sakoda* at column 9, line 6 to column 13, line 52.

Anticipation. Independent claims 11 and 23 are anticipated by *Sakoda* only if each and every element as set forth in independent claims 11 and 12 is found, either expressly or inherently described, in *Sakoda*. As such, to warrant the final anticipation rejection of independent claims 11 and 23, *Sakoda* must show each and every limitation

of independent claims 11 and 23 in as complete detail as in contained in independent claims 11 and 23. See, MPEP §2131.

Claims 11 and 23. The Appellant respectfully traverses this anticipation rejection of independent claims 11 and 23, because *Sakoda* fails to teach or suggest "multiplying a lower bit rate signal and a second PN-code sequence to yield the lower bit rate product, wherein the lower bit rate product has a chip rate equal to a bit rate of the higher bit rate signal" as recited in independent claim 11, and "means for multiplying the lower bit rate signal by the first PN-code sequence and a second PN-code sequence to give the spread spectrum signal the predetermined output chip rate, wherein a lower bit rate product of the lower bit rate signal and the second PN-code sequence has a chip rate equal to the higher bit rate of the higher bit rate signal" as recited in independent claim 23.

As to the traversal, spread code C11 of *Sakoda* is unequivocally encompassed by the term " PN-code sequence" as recited in independent claims 11 and 23 as evidenced by the fact that bit rate signal S42 is widened by spread code C11 to yield spread spectrum signal S43 at a predetermined output chip rate of 2048 Kcps. Specifically, spread code C11 has a spread ratio SP of 32 for a first time period to widened bit rate signal S42 from 64 Kcbps to yield spread spectrum signal S43 at a predetermined output chip rate of 2048 kcps.

Second, spread code C11 has a spread ratio SP of 16 for a second time period to widened bit rate signal S42 from 128 Kcbps to yield spread spectrum signal S43 at a predetermined output chip rate of 2048 kcps.

Third, spread code C11 has a spread ratio SP of 10 for a third time period to widened signal S42 from 204.8 Kcbps to yield spread spectrum signal S43 at a predetermined output chip rate of 2048 kcps.

And, fourth, spread code C11 has a spread ratio SP of 8 for a final time period to widened signal S42 from 256Kcbps to yield spread spectrum signal S43 at a predetermined output chip rate of 2048 kcps.

The issue is whether scramble code C12 of *Sakoda* is encompassed by the term "PN code sequence" as recited in independent claims 11 and 23 despite the fact that *Sakoda* teaches scramble code C12 for scrambling spread spectrum signal S43 to yield scrambled spread spectrum signal S44 at a predetermined output chip rate of 2048 Kcps as set by spread spectrum signal S43 and not for purposes of spreading spread spectrum signal S43 to yield scrambled spread spectrum signal S44 as evidenced by the fact that signals S43 and S44 both have the same chip rate of 2048 Kcps. This issue is resolved by the following description of the only two possible implementations of scramble code C12 of *Sakoda* as a "PN code sequence" as recited in independent claims 11 and 23.

In a first case, bit rate signal S42 of *Sakoda* at 256 Kcbps is assumed to be the "high bit rate signal" of independent claims 11 and 23, bit rate signal S42 of *Sakoda* at 64 Kcbps is assumed to be the "low bit rate signal" of independent claims 11 and 23, and

spreading code C11 of *Sakoda* is assumed to be the "first PN-code sequence" of independent claims 11 and 23. Under these assumptions, spreading code C11 with a spread ratio of 8 would be used to spread low bit rate signal S42 at 256 Kcbps to yield spread spectrum signal S43 with a predetermined chip output rate of 2048 Kcbps as required by independent claims 11 and 23, and if scramble code C12 of *Sakoda* is to be the "second PN-code sequence" as recited in claims 11 and 23, then scramble code C12 must be multiplied to low bit rate signal S42 at 64 Kcbps to yield a low bit rate product having the same chip rate of 256 Kcbps of high bit rate signal S42. However, in view of the fact that scramble code C12 does not have a spread ratio since it is a scramble code and not a spread code, multiplying scramble code C12 to low bit rate signal S42 at 64 Kcbps would yield a scrambled low bit rate product at 64 Kcbps and not at 256 Kcbps as required by independent claims 11 and 23.

In the other case, bit rate signal S42 of *Sakoda* at 256 Kcbps is assumed to be the "high bit rate signal" of independent claims 11 and 23, bit rate signal S42 of *Sakoda* at 64 Kcbps is assumed to be the "low bit rate signal" of independent claims 11 and 23, and spreading code C11 of *Sakoda* is assumed to be the "second PN-code sequence" of independent claims 11 and 23. Under these assumptions, spreading code C11 with a spread ratio of 32 would be used to spread low bit rate signal S42 at 64 Kcbps to yield spread spectrum signal S43 with a predetermined chip output rate of 2048 Kcbps as required by independent claims 11 and 23, and if scramble code C12 of *Sakoda* is to be the "first PN-code sequence" as recited in claims 11 and 23, then scramble code C12

must be multiplied to high bit rate signal S42 at 256 Kcbps to yield spread spectrum signal S43 with a predetermined chip output rate of 2048 Kcbps as required by independent claims 11 and 23. However, in view of the fact that scramble code C12 does not have a spread ratio since it is a scramble code and not a spread code, multiplying scramble code C12 to high bit rate signal S42 at 256 Kcbps would yield spread spectrum signal S43 at 256 Kcbps and not at 2048 Kcbps as required by independent claims 11 and 23.

In summary, code C12 of *Sakoda* CAN NOT be reasonably interpreted as a "PN-code sequence" of independent claims 11 and 12, because *Sakoda* teaches scramble code C12 as a scramble code and not a spread code. Withdrawal of the rejection of claims 11 and 23 under §102(e) as being anticipated by *Sakoda* is therefore respectfully requested.

Dated: **February 28, 2005**

Respectfully submitted,

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CLAIMS APPENDIX

11. A method of transmitting a spread spectrum signal, the method comprising:

using a first PN-code sequence to spread one of a lower bit rate product or a higher bit rate signal to a predetermined output chip rate for the spread spectrum signal; and

multiplying a lower bit rate signal and a second PN-code sequence to yield the lower bit rate product, wherein the lower bit rate product has a chip rate equal to a bit rate of the higher bit rate signal.

23. A spread spectrum transmitter for transmitting a spread spectrum signal, the transmitter comprising:

a source of a higher bit rate signal having a higher bit rate;

a source of a lower bit rate signal having a lower bit rate;

means for multiplying the higher bit rate signal by a first PN-code sequence to give the spread spectrum signal a predetermined output chip rate; and

means for multiplying the lower bit rate signal by the first PN-code sequence and a second PN-code sequence to give the spread spectrum signal the predetermined output chip rate, wherein a lower bit rate product of the lower bit rate signal and the second PN-code sequence has a chip rate equal to the higher bit rate of the higher bit rate signal.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.

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